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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,417	01/27/2004	David A. Sharp	1652.69414	4151

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EXAMINER

DEUBLE, MARK A

ART UNIT PAPER NUMBER

3651

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/766,417	Applicant(s) SHARP, DAVID A.	
	Examiner Mark A. Deuble	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the aperture of claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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2. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, independent claims 1 and 6 include the new limitation that each shaft end is non-rotatably attached to corresponding pivoting members by a ball bushing. There is no support in the original disclosure for this non-rotatable attachment.

Additionally, claim 6 includes the new limitations that the guide rollers are “each adjustably positioned in a corresponding aperture provided at both edges of the conveyor belt.” There is no support in the original disclosure for this adjustable positioning or the aperture.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 6 both include the limitation that each shaft end is “non-rotatably attached to corresponding pivoting members by a ball bushing.” This language renders the scope of the claims impossible to ascertain because it is not understood how the shaft can be non-rotatably attached to the pivoting members while still allowing the tracking rollers to rotate. Furthermore, there is some pivotal rotation inherent in a ball bushing connection. This discrepancy renders the claims indefinite.

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Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). It is unclear what the term “castellated” in claim 5 means, but it appears to be something other than the accepted meaning from Merriam Webster’s Online of “1: having battlements like a castle 2: having or supporting a castle.” The term is indefinite because the specification does not clearly redefine the term.

Claim 6 states that the guide rollers are “adjustably positioned in a corresponding aperture provided at both edges of the conveyor belt.” However, nothing in the claim states what the apertures are formed in making the scope of the claim impossible to ascertain.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Sollenberger et al. (U.S. Patent No. 2,132,053).

Sollenberger shows an alignment system for a conveyor having a conveyor belt 7 trained over rollers on a conveyor frame comprising pivoting members 14 and 15 that are supported on corresponding support brackets 16 and 17 for pivotal movement about an axis transverse to the

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axis of the tracking roller shaft. The pivoting members are configured for supporting tracking rollers 9 and 11 (which may be viewed as being castellated) at tracking roller shaft ends 29. The tracking roller shaft ends 29 connect the rollers and the pivoting members via a ball bushing 28 and a non-rotatable attachment through 31. A guide control bar 44 having two ends is pivotally connected at each end to a corresponding torque arm made of members 36 and 33. The torque arms are in turn fixedly connected to the pivoting members to cause them to pivot when the torque arms are moved. The torque arms are moved when the belt 7 contacts guide rollers 37 mounted on the end of the guide control bar through the torque arms so that they are positioned at both edges of the conveyor belt for lateral control of the belt on a working flight side of the conveyor belt. Thus Sollenberger et al. shows all the structure required by claims 1-2 and 5-6.

In regard to the limitation that the ends of the control bar extend laterally outside of the conveyor frame and that the torque arms are located laterally outside of the conveyor frame, it should be noted that the claims are directed to the alignment system per se and not to the combination of the alignment system and conveyor frame. Therefore, the relationship between the frame and the control bar and torque arms is given no patentable weight.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sollenberger et al. in view of Hovsto et al. (U.S. patent No. 6,131,726) or Evans et al. (U.S. patent No. 3,066,547).

In regard to the limitation of claim 3 that the support brackets are positioned on the return flight side of the conveyor belt, it should be noted that both Hovsto et al. and Evans et al. teach that belt guiding arrangements of the type shown in Sollenberger may be used interchangeably on the working flight or the return flight of the conveyor and therefore it would have been obvious to use the device of Sollenberger et al. on the return flight so that the support brackets would be positioned on the return flight side of the conveyor belt.

In regard to the limitation of claim 4 that the system is positioned and attached as a retrofit to an existing conveyor, it should be noted that the system of Sollenberger et al. is entirely supported on a base 16 that would make it simple to mount the system to a frame of an existing conveyor and therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the system as a retrofit.

Finally, in regard to the limitations of claims 1 and 6 that the guide bar ends and the torque arms are laterally outside of a conveyor frame, it should be noted that if the system of Sollenberger et al. were mounted on a conveyor with a narrow centrally located frame, the ends of the guide bars and the torque arms would be laterally outside of the conveyor frame.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sollenberger '052 shows an alignment system similar to that of the present invention.

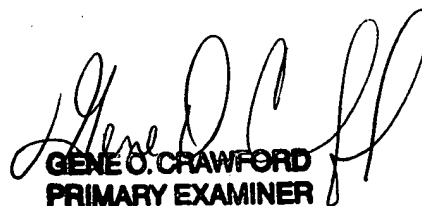
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (571) 272-6912. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md



**GENE O. CRAWFORD**  
**PRIMARY EXAMINER**